

## COMMERCE AND NAVIGATION

*Treaty signed at Washington May 1, 1828*

*Ratified by Prussia August 30, 1828*

*Senate advice and consent to ratification May 14, 1828, and March 9, 1829*<sup>1</sup>

*Ratified by the President of the United States March 12, 1829*

*Ratifications exchanged at Washington March 14, 1829*

*Entered into force March 14, 1829*

*Proclaimed by the President of the United States March 14, 1829*

*Not revived after World War I*<sup>2</sup>

8 Stat. 378; Treaty Series 294<sup>3</sup>

### TREATY OF COMMERCE AND NAVIGATION BETWEEN THE UNITED STATES OF AMERICA AND HIS MAJESTY THE KING OF PRUSSIA

The United States of America and his Majesty the King of Prussia, equally animated with the desire of maintaining the relations of good understanding, which have hitherto so happily subsisted between their respective States, of extending, also, and consolidating the commercial intercourse between them, and convinced that this object cannot better be accomplished than by adopting the system of an entire freedom of navigation, and a perfect reciprocity, based upon principles of equity equally beneficial to both countries, and applicable, in time of peace, as well as in time of war, have, in consequence, agreed to enter into negotiations for the conclusion of a treaty of navigation and commerce; for which purpose the President of the United States has conferred full powers on Henry Clay, their Secretary of State, and his Majesty the King of Prussia has conferred like powers on the Sieur Ludwig Niederstetter, Chargé d'Affaires of his said Majesty near the United States; and the said Plenipotentiaries having exchanged their said full powers, found in good and due form, have concluded and signed the following articles:

<sup>1</sup> The Senate resolution of Mar. 9, 1829, in addition to again consenting to the treaty, advised the President to proceed to the exchange of ratifications notwithstanding the expiration of the time stipulated for the exchange by the terms of the treaty (art. XVI).

<sup>2</sup> See art. 289 of Treaty of Versailles (*ante*, vol. 2, p. 173), the benefits of which were secured to the United States by the treaty restoring friendly relations dated Aug. 25, 1921 (TS 658, *post*, p. 145).

<sup>3</sup> For a detailed study of this treaty, see 3 Miller 427.

## ARTICLE I

There shall be between the territories of the high contracting parties, a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories, in order to attend to their affairs; and they shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing.

## ARTICLE II

Prussian vessels arriving, either laden or in ballast, in the ports of the United States of America, and, reciprocally, vessels of the United States arriving, either laden or in ballast, in the ports of the Kingdom of Prussia, shall be treated, on their entrance, during their stay, and at their departure, upon the same footing as national vessels, coming from the same place, with respect to the duties of tonnage, light-houses, pilotage, salvage, and port charges, as well as to the fees and perquisites of public officers, and all other duties or charges, of whatever kind or denomination, levied in the name, or to the profit, of the government, the local authorities, or of any private establishment whatsoever.

## ARTICLE III

All kind of merchandize and articles of commerce, either the produce of the soil or the industry of the United States of America, or of any other Country, which may be lawfully imported into the ports of the kingdom of Prussia in Prussian vessels, may also be so imported in vessels of the United States of America, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandize or produce had been imported in Prussian vessels.

And, reciprocally, all kind of merchandize and articles of commerce, either the produce of the soil, or of the industry of the Kingdom of Prussia, or of any other Country, which may be lawfully imported into the ports of the United States, in vessels of the said States, may also be so imported in Prussian vessels, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishment whatsoever, than if the same merchandize or produce had been imported in vessels of the United States of America.

## ARTICLE IV

To prevent the possibility of any misunderstanding, it is hereby declared, that the stipulations contained in the two preceding articles, are, to their

full extent, applicable to Prussian vessels and their cargoes arriving in the ports of the United States of America, and, reciprocally, to vessels of the said States and their cargoes arriving in the ports of the kingdom of Prussia, whether the said vessels clear directly from the ports of the Country to which they respectively belong, or from the ports of any other foreign Country.

#### ARTICLE V

No higher or other duties shall be imposed on the importation into the United States of any article, the produce or manufacture of Prussia, and no higher or other duties shall be imposed on the importation into the kingdom of Prussia of any article, the produce or manufacture of the United States, than are, or shall be, payable on the like article, being the produce or manufacture of any other foreign country. Nor shall any prohibition be imposed on the importation or exportation of any article, the produce or manufacture of the United States, or of Prussia, to or from the ports of the United States, or to or from the ports of Prussia, which shall not equally extend to all other Nations.

#### ARTICLE VI

All kind of merchandize and articles of commerce, either the produce of the soil or of the industry of the United States of America, or of any other Country, which may be lawfully exported from the ports of the said United States, in national vessels, may also be exported therefrom in Prussian vessels, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandize or produce had been exported in vessels of the United States of America.

An exact reciprocity shall be observed in the ports of the Kingdom of Prussia, so that all kind of merchandize and articles of commerce, either the produce of the soil or the industry of the said Kingdom, or of any other country, which may be lawfully exported from Prussian ports, in national vessels, may also be exported therefrom in vessels of the United States of America, without paying other or higher duties or charges, of whatever kind or denomination, levied in the name or to the profit of the Government, the local authorities, or of any private establishments whatsoever, than if the same merchandize or produce had been exported in Prussian vessels.

#### ARTICLE VII

The preceding articles are not applicable to the coastwise navigation of the two countries, which is respectively reserved by each of the High Contracting Parties exclusively to itself.

## ARTICLE VIII

No priority or preference shall be given, directly or indirectly, by either of the Contracting Parties, nor by any Company, Corporation, or agent, acting on their behalf, or under their authority, in the purchase of any article of commerce lawfully imported, on account of, or in reference to, the character of the vessel, whether it be of the one party or of the other, in which such article was imported: it being the true intent and meaning of the Contracting Parties, that no distinction or difference whatever shall be made in this respect.

## ARTICLE IX

If either party shall hereafter grant to any other Nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely, where it is freely granted to such other Nation, or on yielding the same compensation, when the grant is conditional.

## ARTICLE X

The two Contracting Parties have granted to each other the liberty of having, each, in the ports of the other, Consuls, Vice Consuls, Agents, and Commissaries, of their own appointment, who shall enjoy the same privileges and powers of those of the most favored Nations. But if any such Consul shall exercise commerce, they shall be submitted to the same laws and usages to which the private individuals of their nation are submitted, in the same place.

The Consuls, Vice Consuls, and Commercial Agents, shall have the right, as such, to sit as Judges and arbitrators in such differences as may arise between the Captains and Crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of the local authorities, unless the conduct of the Crew, or of the Captain, should disturb the order or tranquility of the Country; or the said Consuls, Vice Consuls, or Commercial Agents, should require their assistance to cause their decisions to be carried into effect, or supported. It is, however, understood, that this species of judgment or arbitration shall not deprive the contending parties of the right they have to resort, on their return, to the judicial authority of their Country.

## ARTICLE XI

The said Consuls, Vice-Consuls, and Commercial Agents, are authorized to require the assistance of the local authorities, for the search, arrest, and imprisonment, of the deserters from the ships of war and merchant Vessels of their Country. For this purpose they shall apply to the competent tribunals, judges, and officers, and shall, in writing, demand said deserters, proving, by the exhibition of the registers of the vessels, the rolls of the Crews, or by other official documents, that such individuals formed part of the Crews; and on this reclamation being thus substantiated, the surrender shall not be refused.

Such deserters, when arrested, shall be placed at the disposal of the said Consuls, Vice Consuls, or Commercial Agents, and may be confined in the public prisons, at the request and cost of those who shall claim them, in order to be sent to the vessels to which they belonged, or to others of the same country. But if not sent back within three months from the day of their arrest, they shall be set at liberty, and shall not be again arrested for the same cause. However, if the deserter should be found to have committed any crime or offence, his surrender may be delayed until the Tribunal before which his case shall be depending shall have pronounced its sentence, and such sentence shall have been carried into effect.

#### ARTICLE XII

The twelfth article of the treaty of Amity and Commerce, concluded between the parties in 1785,<sup>4</sup> and the articles from the thirteenth to the twenty-fourth, inclusive, of that which was concluded at Berlin in 1799,<sup>5</sup> with the exception of the last paragraph in the nineteenth article, relating to the treaties with Great-Britain, are hereby revived with the same force and virtue as if they made part of the context of the present treaty; it being, however, understood, that the stipulations contained in the articles thus revived shall be always considered as in no manner affecting the treaties or conventions concluded by either party with other Powers during the interval between the expiration of the said treaty of 1799 and the commencement of the operation of the present treaty.

The parties being still desirous, in conformity with their intention declared in the twelfth article of the said treaty of 1799, to establish between themselves, or in concert with other maritime Powers, further provisions to ensure just protection and freedom to neutral navigation and commerce, and which may, at the same time, advance the cause of civilization and humanity, engage again to treat on this subject, at some future and convenient period.

#### ARTICLE XIII

Considering the remoteness of the respective countries of the two high contracting parties, and the uncertainty resulting therefrom with respect to the various events which may take place, it is agreed that a merchant vessel belonging to either of them, which may be bound to a port supposed, at the time of its departure, to be blockaded, shall not, however, be captured or condemned for having attempted, a first time, to enter said port, unless it can be proved that said vessel could, and ought to have learned, during its voyage, that the blockade of the place in question still continued. But all vessels which, after having been warned off once, shall, during the same voyage, attempt a second time to enter the same blockaded port, during the

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<sup>4</sup> TS 292, *ante*, p. 78.

<sup>5</sup> TS 293, *ante*, p. 88.

continuance of said blockade, shall then subject themselves to be detained and condemned.

#### ARTICLE XIV

The citizens or subjects of each party shall have power to dispose of their personal goods within the jurisdiction of the other, by testament, donation, or otherwise; and their representatives, being citizens or subjects of the other party, shall succeed to their said personal goods, whether by testament or *ab intestato*, and may take possession thereof, either by themselves or by others acting for them, and dispose of the same at their will, paying such dues only as the inhabitants of the country wherein the said goods are shall be subject to pay in like cases. And in case of the absence of the representative, such care shall be taken of the said goods as would be taken of the goods of a native, in like case, until the lawful owner may take measures for receiving them. And if question should arise among several claimants, to which of them said goods belong, the same shall be decided finally by the laws and judges of the land wherein the said goods are. And where, on the death of any person holding real estate within the territories of the one party, such real estate would, by the laws of the land descend, on a citizen or subject of the other, were he not disqualified by alienage, such citizen or subject shall be allowed a reasonable time to sell the same, and to withdraw the proceeds without molestation, and exempt from all duties of *detractio*n, on the part of the Government of the respective States. But this article shall not derogate, in any manner, from the force of the laws already published, or hereafter to be published, by his Majesty the King of Prussia, to prevent the emigration of his subjects.

#### ARTICLE XV

The present treaty shall continue in force for twelve years, counting from the day of the exchange of the ratifications; and if, twelve months before the expiration of that period, neither of the High Contracting Parties shall have announced, by an official notification, to the other, its intention to arrest the operation of said treaty, it shall remain binding for one year beyond that time, and so on, until the expiration of the twelve months which will follow a similar notification, whatever the time at which it may take place.

#### ARTICLE XVI

This treaty shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by his Majesty the King of Prussia, and the ratifications shall be exchanged in the City of Washington, within nine months from the date of the signature hereof, or sooner, if possible.

In faith whereof, the respective Plenipotentiaries have signed the above articles, both in the French and English languages, and they have thereto

affixed their seals; declaring, nevertheless, that the signing in both languages shall not be brought into precedent, nor in way operate to the prejudice of either party.

Done in triplicate, at the City of Washington, on the first day of May, in the year of our Lord one thousand eight hundred and twenty-eight, and the fifty-second of the Independence of the United States of America.

Signed,

H. CLAY

LUDWIG NIEDERSTETTER